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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,834	10/21/2003	Doug L. Rollins	MTIPAT.179C1	5410
20995 7590 06/20/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER NGUYEN, CAO H	
			ART UNIT 2173	PAPER NUMBER
			NOTIFICATION DATE 06/20/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/690,834	Applicant(s) ROLLINS, DOUG L.	
	Examiner Cao (Kevin) Nguyen	Art Unit 2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because of exceeding 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 8, 18, 24 and 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, 8, 18, 24 and 30 are not tangible. The preamble of independent claims 1, 8, 18, 24 and 30 recite "A programmed computer for graphically displaying system information gathered by and received from a source computer, the programmed computer comprising:", which is directed to software, per se, lacking any hardware to enable any functionality to be realized. The claimed features and elements of independent claims 1, 8, 18, 24 and 30 do not include hardware components or features that are necessarily

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implemented in hardware. Therefore, the claimed features of claims 1, 8, 18, 24 and 30 are actually a software, or at best, directed to an arrangement of software, and software claimed by itself, without being executed or implemented on a computer medium, is intangible.

To expedite a complete examination of the instant application, the claims rejected under 35U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of the applicant amending these claims to place them within the four statutory categories of invention.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-31 are rejected on the ground of nonstatutory double patenting over claims 1-25 of U. S. Patent No. 6,664,988 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: computer readable code responsive to a command to gather system information on an electronic device, wherein the system information identifies at least one hardware component that resides in the electronic device; and computer readable code responsive to a command to transmit the system information from the electronic device to a remote electronic device, wherein the system information is configured to be displayed a graphical representation of the remote electronic device. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Nawaz et al. (US Patent No. 5,959,621).

Regarding claims 1 and 16, Nawaz discloses a computerized diagnostic tool for displaying system information on a graphical display comprising: an electronic device that is configured to receive system information from a source electronic device [..The operating

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system is the set of software which controls the computer system's operation and the allocation of resources. The application program is the set of software that performs a task desired by the user, using computer resources made available through the operating system; see col. 5, lines 51-67], wherein the system information identifies at least one hardware component that resides in the source electronic device, and wherein the electronic device displays a graphical representation of the system information [..The source identifier identifies a content provider that is currently sourcing or providing the data items being displayed; see col. 8, lines 17-33].

Regarding claim 2, Nawaz discloses wherein the receipt of the system information is activated by an action occurring on the source electronic device [..Messages from other users on a computer network also can be displayed, by multiple servers on multiple networks. The client computer also can source data items for display in the ticker display pane; see col. 10, lines 10-42].

Regarding claim 3, Nawaz discloses wherein the system information is received via electronic mail (see col. 10, lines 50-65).

Regarding claim 4, Nawaz discloses wherein the system information file is stored on an archival mechanism for subsequent reference (see col. 11, lines 10-35).

Regarding claim 5, Nawaz discloses wherein the archival mechanism is a system information database (see col. 11, lines 40-67).

Regarding claim 6, Nawaz discloses wherein the graphical representation of the system information comprises icons to represent system components arranged in a hierarchical order (see col. 13, lines 39-45).

Regarding claim 7, Nawaz discloses wherein the graphical representation of the system information comprises a template populated with icons (see col. 12, lines 23-65).

Regarding claim 8, Nawaz discloses a method of graphically representing system information of a source computer on a remote computer comprising receiving gathered system information from a source electronic device (see figures 3-5), wherein the system information identifies at least one hardware component that resides in the source electronic device; and displaying a graphical representation of the system information contained in the system information file (see col. 13, lines 39-65).

Regarding claim 9, Nawaz discloses further comprising storing the system information file in a system information database (see col. 8, lines 14-47).

Regarding claim 10, Nawaz discloses wherein receiving the system information file is accomplished via the Internet (see figures 12-14).

Regarding claim 11, Nawaz discloses wherein displaying a graphical representation comprises providing a template populated with icons, each icon representing items contained in the system information (see col. 12, lines 23-65).

Regarding claim 12, Nawaz discloses receiving system information from a source electronic device, wherein the system information identifies at least one hardware component that resides in the source electronic device (see figure 2-4); and displaying a graphical representation of the system information contained in the system information file (see figures 5-7).

Regarding claim 13, Nawaz discloses further comprising storing the received system information in a system, information database (see figures 10-12).

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Regarding claim 14, Nawaz discloses wherein receiving the system information file is accomplished via the Internet (see figures 15-16).

Regarding claim 15, Nawaz discloses wherein displaying a graphical representation comprises providing a template populated with icons, each icon representing items contained in the system information (see figures 21-22).

Regarding claim 17, Nawaz discloses wherein the graphical display of information contained in the system information file is hierarchically arranged (see figures 2-4).

Regarding claim 18, Nawaz discloses an electronic device configured to gather system information from said electronic device, wherein the gathered system information identifies at least one hardware component that resides and wherein the electronic device is configured to transmit, for remote diagnostics, said system information (see col. 7, lines 30-67).

Regarding claim 19, Nawaz discloses wherein the transmission of the system information is accomplished by the electronic device uploading the system information to an Internet server which is accessible to a remote computer (see col. 4, lines 1-9).

Regarding claims 20 and 21, Nawaz discloses wherein the transmission of the system information is accomplished via electronic mail; and additionally comprising an archival mechanism for storing the system information (see col. 10, lines 8-42).

Regarding claims 22 and 23, Nawaz discloses wherein the archival mechanism is a system information database; and wherein the system information is arranged in a hierarchical order (see col. 13, lines 39-65).

Regarding claims 24 and 27, Nawaz discloses a method of graphically representing system information comprising gathering system information from an electronic device into a system

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information file, wherein the system information identifies at least one hardware component that resides in the electronic device (see col. 11, lines 40-67 and figures 5-6); and transmitting said system information file to the remote electronic device, wherein the system information is configured to be graphically represented on a remote electronic device (see col. 12, lines 23-65 and figure 7).

As claims 25-26 and 28-31 are analyzed as previously discussed with respected to claims 17-23 above.

Conclusion

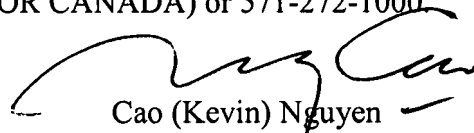
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (571)272-4053. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Cao (Kevin) Nguyen
Primary Examiner
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06/08/07